

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
(Norfolk Division)

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14cr88-002

SHEILA CLARK LEWIS

DEFENDANT'S OBJECTIONS TO PRE-SENTENCE REPORT

In accordance with § 6A1.2 of the Sentencing Guidelines and Policy Statements and this Court's policy regarding sentencing guidelines, the defendant represents that she has reviewed the Probation Officer's Pre-sentence Investigation Report prepared in this matter, and hereby gives notice that she does dispute the following factors:

Paragraph 26 - Base Offense Level

The defendant objects to the application of a two-level increase under U.S.S.G. §2B1.1(b)(2)(A)(i), because the offense involved 5 victims, not more than 10 victims. The Pre-sentence Investigation Report states there were initially 27 patient victims. These victims, however, have been made whole financially by Citigroup, Kohl's, Ntelos, JC Penney, and AT&T, the latter of which who have been identified as the actual victims in this case.

Application Note 1, definitions for the purposes of this guideline, states in pertinent part, a "[v]ictim" means (A) any person who sustained any part of the actual loss determined under subsection (b)(1) . . . ." *Application Note 2.*

Thus, the application of a two-level increase under U.S.S.G. §2B1.1(b)(2)(A)(i) is inapplicable.

Paragraph 28 - Victim Related Adjustment

The defendant objects to the two-point enhancement under U.S.S.G. § 3A1.1(b)(1) because it cannot be established beyond a reasonable doubt the "defendant knew or should have known that a victim of the offense was a vulnerable victim."

The defendant's co-defendant, Shavika V. Thompson (2:14cr88-001), without the defendant's prior or contemporaneous knowledge or assistance, gained access to and obtained the personally identifiable information of at least 200 individuals from medical patient lists from her employer. The information in these lists included names, social security numbers, and dates of birth. The lists did not contained any specific information relating to a patient's unusual vulnerability due to age, physical or mental condition, or any specific information relating to an otherwise particularly susceptibility to the criminal conduct. (See Paragraph 9, Section 3. of the Pre-sentence Investigation Report).

U.S.S.G. § 3A1.1(b)(1) states that under subsection (b) a "vulnerable victim" means a person (A) who is a victim of the offense of conviction and any conduct for which the defendant is accountable under §1B1.3 (Relevant Conduct); and (B) who is *unusually* vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct. (*Emphasis Supplied*). *Application Note 2*.

Also, albeit there were at least 27 identified personal victims in this case, their accounts have been made whole financially by Citigroup, Kohl's, Ntelos, JC Penney, and AT&T, the latter of which who have been identified as the actual victims in this case. Thus, aside from the use of the patient's personal information, the patients suffered no financial loss.

For the foregoing reasons, the defendant prays this Court make the appropriate adjustments to her Pre-sentence Investigation Report.

SHEILA CLARK LEWIS

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of November 2014, I will electronically file the foregoing document with the Clerk of Court using CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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I hereby further certify that on the 14th day of November 2014, I hand delivered a true copy of the foregoing Defendant's Objections to Pre-Sentence Report to the following non-filing user to:

Leah D. Greathouse  
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